

**Oregon Water Resources Department  
Water Right Services Division**

**Application for Extension of Time**

In the Matter of the Application for an Extension of Time	) PROPOSED
for Permit R-15250, Water Right Application R-86935	) FINAL
in the name of Gary Young, Blue Mountain Ranch	) ORDER DENIAL

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**Permit Information**

Application:	R-86935
Permit:	R-15250
Basin:	Deschutes / Watermaster District 24
Date of Priority:	June 29, 2007
Source of Water:	Beaver Creek, a tributary of Crooked River
Storage Facility:	Beaver Creek West Reservoir
Purpose of Use:	irrigation, livestock, and wildlife
Maximum Volume:	61.25 acre-feet (AF)

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***Please read this Proposed Final Order in its entirety.***

*In summary, the Department proposes to:*

- Deny an extension of time to apply water to full beneficial use from September 19, 2022, to October 1, 2030.

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

## **ACRONYM QUICK REFERENCE**

Department – Oregon Water Resources Department

PFO – Proposed Final Order

AF - acre-feet

## **AUTHORITY**

**Generally, see ORS 537.230 and OAR Chapter 690 Division 315.**

**ORS 537.230(2)** provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

**ORS 539.010(5)** instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

**OAR 690-315-0040** provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is “good cause” to approve the extension. OAR 690-315-0040(2)-(4) contain the factors that the Department must consider to make findings that support a “good cause” determination.

## **FINDINGS OF FACT**

1. On September 19, 2017, Permit R-15250 was issued by the Department. The permit authorizes the storage of up to 61.25 AF of water for irrigation, livestock, and wildlife in Beaver Creek West Reservoir from Beaver Creek, a tributary of Crooked River. The permit specified construction was to begin and the permitted volume of water was to be stored within five years from the date of permit issuance, being September 19, 2022.
2. On February 11, 2026, Susan Teskey, member of Blue Mountain Ranch, submitted an “Application for Extension of Time” to the Department requesting the time to store the permitted volume of water be extended from September 19, 2022, to October 1, 2030. This is the first permit extension requested for Permit R-15250.
3. Notification of the Application for Extension of Time for Permit R-15250 was published in the Department’s Public Notice dated February 17, 2026. No public comments were received regarding the extension application.

### **Review Criteria [OAR 690-315-0040]**

In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

### **Complete Extension of Time Application [OAR 690-315-0040(1)(a)]**

4. On February 11, 2026, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

### **Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]**

*ORS 537.230 (1) states in part that “Except for a holder of a permit for municipal use, the holder of a water right permit shall prosecute the construction of any proposed irrigation or other work with reasonable diligence and complete the construction within a reasonable time, as fixed in the permit by the Water Resources Department, not to exceed five years from the date of approval” [emphasis added]. R-15250 was issued pursuant to ORS 537.625. The application states that construction of the well has not yet begun. An extension cannot be approved to begin construction.*

*OAR 690-315-0040(5) states “if the extension is requested pursuant to ORS 537.230, the applicant must have begun actual construction work, as Defined in OAR 690-315-0020(3)(d)(A) and (B), during the period required by statute. If the Department finds the applicant did not begin construction by that date, the permit cannot be extended and the Department may begin cancellation proceeding pursuant to ORS 537.260.*

5. According to the Application:

“The Ranch holds several certificates for irrigation from Beaver Creek; the POD is in the SW1/4 of the SW1/4 of Section 24, T16S, R23E; irrigation water from the POD flows down the West Side Ditch and the East Side Ditch to irrigate many acres in several sections in the vicinity of proposed West Reservoir and proposed East Reservoir (see attached application map for Permit R15250). As originally planned, once West Reservoir was built, piping would be installed to connect West Reservoir to these ditches to allow for supplemental irrigation on these lands. Every spring, the Ranch uses their backhoes, loaders, and similar equipment to clean and repair the irrigation ditches. Because the ditches were planned to be used as part of the West Reservoir distribution system, ditch maintenance and repair is considered construction of the water system Note that development of West Reservoir and East Reservoir are related, as explained in following sections of this Extension Application. As of October 2021, the pump station has been installed for the East Reservoir, including the tank vault, electrical panel, and pump, and, with the issuance of this requested extension the West Reservoir permit will be amended to change the POD and POU to match the East Reservoir (permit R-15322) as OWRD Dam Safety permitted the size of the East Reservoir to hold the full volume of permit R-15250 and the East Reservoir permit R-15322. Since the legal decision was

confirmed in December 2023 in a legal conclusion that a change or transfer of reservoir storage rights are possible under the existing rules, the Ranch is seeking to do this-change the POD and POU of the reservoir.”

6. The Application does not identify any work or construction towards the development of Beaver Creek West Reservoir, as authorized by Permit R-15250.

**Good Cause [OAR 690-315-0040(1)(d)]**

*The Department must find that there is “good cause” to approve the extension. In making a “good cause” finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).*

**Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]**

*In order to make a finding of “good cause” to approve the extension, the Department shall consider whether the applicant has demonstrated “reasonable diligence” in previous performance under the permit. OAR 690-315-0040(2)(a). In determining “reasonable diligence”, the Department shall consider, but is not limited to, the following factors:*

*a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.*

**Amount of Construction [OAR 690-315-0040(3)(a)]**

*The amount of construction completed within the time allowed in the permit.<sup>1</sup>*

7. The Application does not identify any work or construction towards the development of Beaver Creek West Reservoir, as authorized by Permit R-15250.

The Department has considered the work asserted in the Application as work to begin construction under Permit R-15250, and has determined that maintenance of irrigation ditches, utilized under other water rights, and construction of the point of diversion authorized under Permit R-15322, do not qualify as construction under Permit R-15250. The Department has determined that construction has not begun under Permit R-15250.

**Compliance with Conditions [OAR 690-315-0040(3)(c)]**

*The water right permit holder’s conformance with the permit conditions.*

8. The record does not show compliance with all permit conditions has been demonstrated.

The Department has determined that the permit holder has not demonstrated compliance with all permit conditions as required by Permit R-15250. The Department recognizes that it is the intent of the permit holder to comply with permit conditions at the time they become applicable,

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<sup>1</sup> “Actual Construction” is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder’s good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

including the requirement to install fish screen and by-pass devices prior to the storage of water, or to obtain documentation that the fish screens and by-pass devices are not required.

**Beneficial Use of Water [OAR 690-315-0040(3)(b)]**

*The amount of beneficial use made of the water during the permit time period.*

9. No water has been stored under Permit R-15250.

The Department has determined that beneficial use of water has not yet been demonstrated under this permit because no water has been stored, and not all permit conditions were satisfied by September 19, 2022.

**Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]**

10. According to the Application, an investment of approximately \$157,000 has been made. The costs included the original permit application fees, protests and legal fees, costs associated with issuance of the Final Order and Permit, historic costs of on-ranch activities, and costs associated with the construction of Beaver Creek East Reservoir, authorized under Permit R-15322. These items are not considered costs associated with construction under this permit and therefore are not counted towards development.

The Department finds that there has been no investment towards the development of Permit R-15250

**Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]**

The Application does not provide evidence of work accomplished towards the development of Beaver Creek West Reservoir, as authorized by Permit R-15250. The permit holder assertions that a legal decision in December 2023, (OWRD vs. Bridge Creek Ranch; a Pape Machinery/Family reservoir) provides the possibility to transfer storage right. The Department does not interpret the decision in the aforementioned case to be relevant to this permit because the case was specific to transfer of certificated water rights for storage. The aforementioned case does not provide for an extension of time for a permit when construction, as authorized by the permit, did not begin within five years from the date the permit was issued. The Department has determined the applicant has not demonstrated reasonable diligence in previous performance under Permit R-15250.

**The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]**

*The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:*

- *(a) The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) Special water use designations established since permit issuance, including but not*

*limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);*

- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

**OAR 690-315-0040(4)(a)**

The amount of water available to satisfy other affected water rights and scenic waterway flows.

11. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit R-15250; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.
12. Current Water Availability Analysis for the Beaver Creek, tributary of Crooked River at the mouth (watershed ID 70605) show that water is only available during the months of March and April at the 50% exceedance level.

**OAR 690-315-0040(4)(b)**

Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

13. The point of diversion is located on Beaver Creek, a tributary of Crooked River, and is not located within a Withdrawn Area.
14. Beaver Creek, a tributary of Crooked River is located above the Deschutes Scenic Waterway.
15. The point of diversion is in a location listed by the Department of Environmental Quality as a water quality limited stream.
  - a. Beaver Creek, River Mile 0 to 20 listed under Water Quality Limited for dissolved oxygen.

**OAR 690-315-0040(4)(c)**

The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

16. Beaver Creek, a tributary of Crooked River is located within an area ranked “high” for stream flow restoration needs as determined by the Department in consultation with the

Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

**OAR 690-315-0040(4)(d)**

Economic interests dependent on completion of the project.

17. Other economic interests dependent on the completion of the project have not been identified.

**OAR 690-315-0040(4)(e)**

Other economic interests dependent on completion of the project.

18. No other economic interests dependent on completion of the project have been identified.

**OAR 690-315-0040(4)(f)**

Other factors relevant to the determination of the market and present demand for water and power.

19. No other factors relevant to the determination of the market and present demand for water and power have been identified.

**Fair Return Upon Investment [OAR 690-315-0040(2)(f)]**

20. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

**Other Governmental Requirements [OAR 690-315-0042(2)(g)]**

21. The Application asserts:

The Ranch owners initially submitted the Permit application to OWRD on June 29, 2007. OWRD issued the PFO to deny the Permit application on June 9, 2009, a governmental delay of 2 years. The Ranch owners timely protested the denial, and addressed the issue for the denial by adding additional usage types. OWRD issued the Final Order incorporating the Settlement Agreement on April 14, 2011, and issued Permit R-15322 on April 11, 2018, a further governmental delay of 9 years. Additional work with Dam safety to rereview the dam design based on changes to OAR 690-020 adopted in 2020 requires a 5-year rereview of the dam design. Discussions and preliminary review of the dam design was conducted with OWRD Dam Safety in April 2024, Dam Safety did not see any concern with the older than 2020 design and recommended to request design re-review in the year anticipated construction on the dam would reconvene.

A review of the record indicates that a Final Order incorporating a settlement agreement was issued April 14, 2011, which required approval of dam plans and specification for Application

R-86934, and submittal of the permit recording fees. The permit holder was granted a series of Administrative Holds to provide time for engineering and plans to be developed and submitted. In 2013, the Department approved plans and specifications. On August 23, 2017, the Department sent a reminder to the permit holder that the outstanding recording fees were still needed to issue a permit.

The Department has determined, based on a review of the record, that the time elapsed between when the permit applications were submitted, to when the permits were issued, does not qualify as an additional governmental requirement as the delay was directly caused by the applicant's numerous requests for administrative holds to provide time to develop and submit plans for Application R-86934.

### **Unforeseen Events [OAR 690-315-0040(2)(h)]**

22. The Application states:

In the Winter of 2015, the owners' paternal grandfather became ill; he passed away in August of 2015. As the patriarch of their family, it was a difficult loss and a stressful time for the family and for the Ranch's business. Following his death, the Ranch owners' energy was focused on burying their grandfather, moving their grandmother to Arizona, handling the ensuing estate issues, and managing the change in family & Ranch operations dynamics. The time and finances that had been planned to be allocated towards on structing East Reservoir, developing other Ranch water rights Permits, and executing other Ranch projects, was redirected in the summer, fall, and winter of 2015 while the Ranch owners managed the circumstances and fallout after the death of their grandfather.

In January of 2016, the two primary owners of the Ranch (brother and sister Aaron Young and Sarah Teskey) reached the difficult and sensitive decision to enact a buyout agreement wherein Sarah would purchase Aaron's individual interest. This process consumed all the emotional financial and administrative energy of those involved in the Ranch business for the entire 2016 year. The Ranch maintained basic operations during this transition but there was little time attention or manpower remaining for completion of water right-related improvements, or for seeking new financing, and scant finances were available for investing in water rights-related projects, including construction of East Reservoir.

Beginning in late 2016, the Ranch owners were making tremendous progress with on-Ranch improvements, including water rights related improvements. Unfortunately, the 2020 Pandemic and associated restrictions slowed that progress. In addition, beef prices fluctuated wildly as a result of COVID. which increased the difficulty in accurately budgeting for reservoir construction and other water right permit development tasks. As noted earlier in this Extension Application, Pump Station #1 was constructed in the Fall of 2021. piping was installed connecting Pump Station #1 to the East Reservoir location, and the keyway trench excavation was worked on in the summer of 2022 and the summer

of 2023. However, insufficient time and financing were available to complete construction of East Reservoir and the related irrigation system.

**Denial of an Extension Would Result in Undue Hardship [OAR 690-315-0040(2)(i)]**

23. The Application indicates that a denial would result in an undue hardship, and there are no other reasonable alternatives to meet the need.

**Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]**

24. The Application does not provide evidence of good faith of the appropriator.

The Department finds that the Applicant has not demonstrated good faith. The Application does not identify any work towards the development of Beaver Creek West Reservoir, as authorized by Permit R-15250.

**Duration of Extension [OAR 690-315-0040(1)(c)]**

*Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.*

25. As of February 11, 2026, the permit holder states the remaining work to be completed consists of submitting a permit amendment to change the point of diversion and place of user of Beaver Creek West Reservoir, to the locations of the point of diversion and place of use for Beaver Creek East Reservoir, authorized under Permit R-15322., completing construction of Beaver Creek East Reservoir, and storing the permitted volume of water.

The Department cannot find that the applicant can complete the project or apply water to full beneficial use within the time requested for the extension because the applicant did not begin construction within the time allowed in the permit (5 years). Construction to develop Beaver Creek East Reservoir does not qualify as construction of the authorized storage under Permit R-15250.

**Good Cause [OAR 690-315-0040(1)(d)]**

*The Department must find that there is “good cause” to approve the extension. In making a “good cause” finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).*

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, and any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to store the authorized volume of water use pursuant to OAR 690-315-0040(1)(d).

## CONCLUSIONS OF LAW

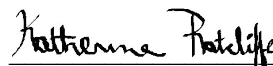
1. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
2. The applicant did not begin construction as required pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
3. The application established that there has been no construction, no financial investment, or reasonable diligence towards development. The permit holder has not shown that good cause exists for an extension of time to complete construction and apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

## PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Deny the time to apply water to beneficial use under Permit R-15250 from September 19, 2022, to October 1, 2030.

DATED: March 31, 2026

  
Katherine Ratcliffe  
Water Right Services Division Administrator, for  
Ivan Gall, Director  
Oregon Water Resources Department

*If you have any questions,  
please check the information  
box on the last page for the  
appropriate names and  
phone numbers.*

### Protests

Pursuant to OAR 690-315-0060(1), the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. Protests must be received by the Water Resources Department no later than **May 15, 2026**, at this address: Oregon Water Resources Department, Water Right Services Division, 725 Summer St NE, Suite A, Salem, OR 97301-1266. Protests may not be submitted by electronic mail. OAR 690-002-0025(3).

Protests must be in writing and include all of the following:

- The name, address, and telephone number of the protestant
- A detailed description of the protestant's interest in the proposed final order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented

- A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency
- If the applicant protests, a statement of whether a hearing is requested
- Citation of legal authority supporting the protestant, if known
- Proof of service of the protest on the water right permit holder, if protestant is other than the water right permit holder, and
- If you are the applicant, the protest fee of \$720 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$1,425 required by ORS 536.050.

Within 60 days after the close of the period for requesting a contested case hearing, the Director shall either issue a final order on the extension request, or schedule a contested case hearing if a protest has been submitted, and, upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or, the applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests. The hearing will be conducted as provided in Oregon Revised Statutes (ORS) Chapter 183, and Oregon Administrative Rules (OAR) 137-003-0501 to 137-003-0700.

If the applicant does not request a hearing within 30 days after the close of the protest period, or if the request for a hearing is withdrawn, or the Department or the administrative law judge is notified that the protestant will not appear, or the protestant fails to appear, at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

A party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

**Notice Regarding Servicemembers:** Active-duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

